

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Benjamin OSHLACK et al.
Serial No.: 10/701,041
Art Unit: 1616
Filed: November 4, 2003
For: **TAMPER-RESISTANT ORAL OPIOID
AGONIST FORMULATIONS**
Examiner: James Henry ALSTRUM-ACEVEDO
Docket No.: 200.1133CON2



Commissioner for Patents
P.O. Box 1450
Alexandria, VA, 22313-1450

April 8, 2009

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Sir:

In accordance with Applicants' duty of disclosure under 37 C.F.R. § 1.56 and the provisions of 37 C.F.R. §§ 1.97 and 1.98, Applicants hereby make of record the documents listed on the accompanying Form PTO-1449 (1 page).

Document AS is a copy of the COMPLAINT FOR DECLARATORY JUDGMENT ("Complaint") filed in the United States District Court for the Western District of Virginia by Alpharma Inc. on November 17, 2008, against Purdue Pharma L.P., the assignee of the present application. In COUNT XVIII of the Complaint, Alpharma Inc. alleges that each claim of U.S. Patent No. 6,696,088 "is invalid and/or unenforceable for failure to comply with the conditional requirements for patentability as set forth in Part II of Title 35 of the United States Code, including §§ 101, 102, 103, and 112." *See Complaint, page 21.* U.S. Patent No. 6,696,088 issued from U.S. Patent Application Serial No. 09/781,081, which has the identical specification as the present application¹.

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¹ The present application is a continuation of U.S. Patent Application Serial No. 09/781,081, filed on February 8, 2001, now U.S. Patent No. 6,696,088.

Applicants note that all of the patents mentioned in the Complaint were cited on Forms PTO-1449 previously filed in connection with the present application. Regarding U.S. Patent No. 7,419,686, Applicants note that this patent was cited as U.S. Publication No. 2007-0122348 (reference BG on Form PTO-1449 filed on September 8, 2008).

In accordance with 37 C.F.R. § 1.98(a)(2), a copy of the Complaint is enclosed. If it is determined that the copy is missing, the Examiner is respectfully requested to contact the undersigned by telephone so that a duplicate copy may be forwarded.

Also enclosed herewith are copies of (i) the Office Action issued on November 26, 2008, in U.S. Serial No. 10/700,861, (ii) the Office Action issued on November 25, 2008, in U.S. Serial No. 10/689,866, (iii) the Office Action issued on February 26, 2009, in U.S. Serial No. 10/700,893; and (iv) the Office Action issued on March 18, 2009, in U.S. Serial No. 10/700,906, all four applications having the identical specification and the priority claims as the present application.

It is respectfully requested that the information in these Office Actions and in the Complaint cited on the accompanying Form PTO-1449 (1 page) be considered in its entirety and made of record.

This Information Disclosure Statement is filed under 37 C.F.R. § 1.97(c), “before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application” and is accompanied by a check to cover the fee set forth in § 1.17(p). In the event any additional fee is due or an overpayment has been made in connection with the filing of this Information Disclosure Statement, the Commissioner is hereby authorized to charge

said fee or credit said overpayment to our Deposit Account No. 50-0552.

Respectfully submitted,
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By: 
Oleg Ioselevich, Reg. No. 56,963

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